

COMMANDER'S GUIDE TO PROCESSING ARTICLE 139 CLAIMS

USAG Humphreys Claims Office, 753-6245

References:

- UCMJ Article 139
- AR 27-20, Chapter 9
- DA Pam 27-162

What is an Article 139 Claim?

- Article 139, UCMJ provides a means of redress to any person, military or civilian, who believes that his property has been willfully damaged or wrongfully taken by a member of the Armed Forces of the United States.
- An Article 139 claim is a complaint made to the Brigade level commander (Special Court-Martial Convening Authority, SPCMA) of the offender. The commander orders an investigation to determine if the soldier is at fault.

When does Article 139 apply?

- The key words in Article 139 are “willfully damaged” or “wrongfully taken”, essentially meaning vandalism or theft. An investigating officer (IO) must find that the offender intended the act that caused the loss or exercised conduct showing a reckless or wanton disregard of the property rights of the claimant.

Examples: An Article 139 claim is appropriate:

- If a particular soldier stole personal property, such as a stereo or camera or cash, and that property cannot be recovered.
- If a soldier intentionally vandalized an automobile or willfully destroyed or damaged a claimant's personal property during an argument.
- If one soldier uses another's phone without permission and runs up a large telephone bill that he refuses to pay.

Who may file an Article 139 claim?

- Any individual (civilian or military) may file an Article 139 claim against a soldier.

What if criminal/administrative actions are pending against the service member?

- Filing an Article 139 claim is not a substitute for disciplinary or administrative action. Your commander should not delay the processing of an Article 139 claim just because another type of disciplinary action is pending.
- Seek to have the Article 139 claim processed immediately. If a disciplinary action is taken against a service member, such as a court-martial or non-judicial punishment, the soldier could be reduced in pay/grade, have pay and allowances forfeited, or separated from the service. These events could impact your ability to collect through a 139 claim.

ARTICLE 139 CLAIMS PROCESS AND IMPORTANT DEADLINES

Action	Time Limit	Format	Notes
Filing Claim	within 90 days of the incident that gave rise to the claim	Can extend time limit if claimant shows good cause for delay	
Receipt of a Claim:	Officer who receives a 139 claim must forward it to the		

	Special Court Martial Convening Authority (SPCMA) having jurisdiction over the alleged offender(s) within two working days .		
Initial Action by SPCMA	Appoint an Investigating Officer (IO) (see sample appointment enclosure 1) to conduct an investigation using the informal procedure of AR 27-20, chapter 9, and AR 15-6, chapter 4, within four working days of receiving the claim.		If the claim does not appear cognizable, the SPCMA may refer it for legal review within four working days of receipt. If after legal review, the SPCMA determines that the claim is not cognizable, he or she may disapprove the claim without appointing an IO.
IO	Within ten working days of appointment, the IO will complete the investigation. The SPCMA may extend this ten-day period for good cause	<u>The IO should consult with the CJA or claims attorney before the investigation begins!</u> The findings and recommendation are forwarded to the SPCMCA on DA form 1574 (Report of proceedings by Investigating Officer/Board of Officers).	IO will conduct an investigation using the informal procedure of AR 27-20, chapter 9, and AR 15-6, chapter 4,
Legal Review	Within five working days (which the SPCMA may extend for good cause), the CJA or claims attorney will review the IO's findings and recommendations and will advise the SPCMA whether they are legally sufficient and supported by the evidence.		
Final Action by SPCMA:	The SPCMCA will either disapprove the		The parties involved will be notified of the

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	claim or approve it for an amount equal to or less than the amount recommended by the IO for claims of \$5,000.00 or less.		final decision and their right to request reconsideration. If the SPCMCA determines SM should be held financially liable, the decision is forwarded to the finance office.
Request for Reconsideration:	Either side may request reconsideration within ten working days of the final decision. If so, the SPCMCA shall reconsider the claim within five working days.		
Completed Claim			After action on the claim is completed, the claims office will retain the original claim file and forward a complete copy to the SPCMCA. The claim file will be filed locally, per <u>AR 25-400-2</u> .

NOTES:**Assessment in excess of \$5,000.00**

- The SPCMCA only has authority to approve claims of \$5,000.00 or less.
- If the IO recommends an assessment in excess of \$5,000 and the SPCMCA concurs, the SPCMCA will forward the claim to the field claims office for legal review. After completing a review for legal sufficiency, the CJA or claims attorney will forward the file to the head of the area claims office. In most cases, the head of the area claims office will also be the GCMCA's SJA.

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